IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

S.B.CRIMINAL MISC. PETITION NO. 203/2007

(Chhoga and Ors. V/s State of Rajasthan & Anr.)

Date of Order : 11/07/2007

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. S. Saruparia, for the petitioners.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioner has challenged the order dated 15.11.2006 passed by the Additional Sessions Judge No.1, Camp-Gangapur (for short 'the revisional Court' hereinafter) whereby the revision petition filed by the petitioners against the order dated 21.12.2005 passed by Additional Chief Judicial Magistrate, Gangapur (for short 'the trial court' hereinafter) was dismissed.

I have heard learned counsel for the petitioners.

It is contended by learned counsel for the petitioners that on an FIR lodged by non-petitioner No.2, the police investigated the matter and filed FR, which was accepted by the trial court vide order dated 20.8.1992, against which the non-petitioner No.2 preferred a revision petition before the revisional court and while allowing the revision petition, the revisional court remanded the matter to the trial court vide order dated 13.11.1996 to decide the matter afresh in accordance with law after considering the entire material placed before it. The trial court by order dated 21.12.2005 took the cognizance of the offence and issued process against the petitioners. The order of the trial court came to be challenged by the petitioner by way of a revision petition, and the revisional court dismissed the revision petition by the order impugned dated 15.11.2006. Hence this petition.

The offences against the petitioners are under Sections 147 and 352 IPC and Section 3 (1) (5) (10) of the SC/ST (Prevention of Atrocities) Act (for short 'the Act' hereinafter). The grievance of the petitioner is that while remanding the matter, the revisional court vide order dated 13.11.1996 directed the trial court to consider the material including the FR papers. From the perusal of the order

impugned, it appears that the FR papers have been destroyed after lapse of time. After acceptance of the negative final report, in compliance of the order of the Superintendent of Police, Bhilwara and Dy. S.P., Gangapur, on 7.6.1997 the FR papers have been destroyed. In the circumstances, therefore, when the FR papers have been destroyed, the trial court could not have insisted upon the police to file the same and consider. The trial court took the cognizance of the offence on the basis of the material available before it including the statements of witnesses recorded under Section 200 and 202 Cr.P.C. and on the basis of the statements of witnesses, prima-facie came to the conclusion that the offences noticed above are made out against the petitioners and there is ground to proceed against them and accordingly took the cognizance of the offence and issued the process. In my view, both the courts below have concurrently found that prima-facie there is case against the petitioners for the offences noticed above and therefore, merely because the FR papers have not been considered as the same have been destroyed, cannot be a ground to quash the proceedings as such.

It is settled law that the powers under Section 482 Cr.P.C. are to be exercised sparingly and in exceptional cases where it is established that non-interference would result in manifest injustice. In the instant case, it cannot be said that the

orders impugned would result in manifest injustice.

In this view of the matter, no case for interference is made out in the inherent jurisdiction under Section 482 Cr.P.C. The criminal misc. petition has no force and it is therefore, dismissed.

(H.R.PANWAR),J.

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